

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION SIX**

SOUTH HILLS HEALTH SYSTEM

Employer

and

Case 6-RC-11793

JEFFERSON HOSPITAL TECHNICAL
EMPLOYEES ASSOCIATION/PSEA HEALTH
CARE

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, a hearing was held before Julie Stern, a hearing officer of the National Labor Relations Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its powers in connection with this case to the undersigned Acting Regional Director.¹

Upon the entire record in this case², the Acting Regional Director finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

3. The labor organization involved claims to represent certain employees of the Employer.³

¹ Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington by May 25, 2000.

² The Employer and the Petitioner timely filed briefs in this matter which have been duly considered by the undersigned.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

The Petitioner seeks to represent a unit of all full-time and regular part-time technical employees employed by the Employer at its Jefferson Hospital and Jefferson Surgery Center facilities located in Jefferson Hills, Pennsylvania, and at its Homestead Health Center, including the Willis Nursing Center, the Emergency Room and Family Medicine located in Homestead, Pennsylvania, and at the Clairton Works of USX located in Clairton, Pennsylvania; excluding registered nurses, office clerical employees and guards, professional employees and supervisors as defined in the Act and all other employees.⁴

³ The Employer argued both at the hearing and in its post-hearing brief that the petition must be dismissed in that the Petitioner is not a labor organization within the meaning of Section 2(5) of the Act. Notwithstanding the Employer's assertion, the record evidence establishes, and I find, that the Petitioner constitutes a labor organization within the meaning of Section 2(5) of the Act. Although the Employer does not dispute that PSEA Health Care is a labor organization within the meaning of Section 2(5) of the Act, the Employer contends that the Jefferson Hospital Technical Employees Association is not an affiliate of PSEA Health Care. Contrary to the Employer's assertion in this regard, I find that the Jefferson Hospital Technical Employees Association is an affiliate of PSEA Health Care. The record establishes that the Jefferson Hospital Technical Employees Association is an organization in which employees participate and which exists for the purpose of dealing with the Employer on behalf of employees. Consistent with PSEA Health Care's practice, the Jefferson Hospital Technical Employees Association will adopt a constitution and bylaws and elect officers upon certification. Its members will then be "joint" members of the local and PSEA Health Care. As a practical matter, designation of the parent organization is a valid designation of its local affiliate. See, e.g., Up-To-Date Laundry, Inc., 124 NLRB 247 (1959). Moreover it is well established that structural formal ties, such as the existence of a constitution and by-laws, are not prerequisites to labor organization status within the broad meaning given that phrase in Section 2(5) of the Act. Yale New Haven Hospital, 309 NLRB 363 (1992); Armco, Inc., 271 NLRB 350 (1984); Yale University, 184 NLRB 860 (1970).

Furthermore, the Employer in its post-hearing brief argues that the petition must be dismissed or, in the alternative, amended to change the name of the Petitioner because the Petitioner's use of the name "Jefferson Hospital Technical Employees Association" infringes the Employer's trademark rights in the name "Jefferson Hospital". The Employer further argues that having the name of the Employer in the Petitioner's name will cause confusion to voters and could ultimately result in objectionable conduct. I find this argument to be unpersuasive inasmuch as the name of the Petitioner, which includes "PSEA Health Care" as part of its name, is sufficiently clear to be recognized by the voters as the labor organization. There is only one labor organization involved in the election to be held herein, and I believe that both the Employer and the Petitioner will have ample opportunity prior to the election to dispel any possible confusion which the Employer envisions.

⁴ The unit description was amended by the Petitioner at the hearing.

While the Employer does not dispute that the above-described unit is appropriate in scope and composition⁵ and within the Board's Final Rule on Collective-Bargaining Units in the Health Care Industry (herein "the Rule")⁶, the Employer, contrary to the Petitioner, contends that certain classifications should be excluded from the petitioned-for unit. Specifically, the Employer contends that the positions of Emergency Technician, Operating Room Technician, Cardiology Technician, Anesthesia Technician, Phlebotomist and Pharmacy Technician should be excluded inasmuch as they are not technical positions and they should be part of a residual unit of nonprofessionals. Further, the Employer contends that the positions of Respiratory Therapist and Medical Technologist should be excluded inasmuch as they are professional.

In addition, the Petitioner seeks to exclude certain classifications which the Employer asserts should be included in the petitioned-for unit. These classifications include Music Therapist and Athletic Trainer, which the Petitioner contends are professional; Coder and Medical Chart Technician in the Medical Records Department, which the Petitioner contends are business office clerical; Medical Records Systems Specialist, which the Petitioner contends is either business office clerical or professional; and Telecommunications Technician, Senior Computer Operator and Medical Claims Auditor, which the Petitioner contends are not technical positions but did not assert an alternative unit in which they should be included. There are approximately 345 employees in the petitioned-for unit. There is no history of collective bargaining for any of the employees involved herein.

The Employer is a Pennsylvania not-for-profit corporation which is engaged in the operation of an acute care hospital and related facilities. The Employer's primary place of business is a 337-bed short term acute care hospital located in Jefferson Hills, Pennsylvania,

⁵ The parties stipulated that various classifications should be either included in or excluded from the unit found appropriate herein. Those stipulated classifications are listed in Appendix A attached hereto.

⁶ The Rule is set forth at 29 CFR Part 103, 54 Federal Register No. 76, pp. 16347 – 16348, 284 NLRB 1579, 1596 – 1597 (1987), approved by the Supreme Court in American Hospital Association v. NLRB, 111 S.Ct. 1539 (1991).

which provides in-patient and out-patient medical and professional services to the public.⁷ At the Employer's Jefferson Hills, Pennsylvania locations, there is a complex of buildings which include Jefferson Hospital, Jefferson Surgery Center and the James B. Bibro Pavilion in the South Hills Medical Building. A second campus of the Employer is located in Homestead, Pennsylvania, and includes an emergency room, a personal care facility, the Willis Skilled Nursing Center, a family practice center and several administrative buildings. The Employer also has a contract with USX Corporation to provide occupational medicine to employees at its Clairton, Pennsylvania facility. Further, the Employer has a satellite location in Brentwood, Pennsylvania and has Home Health nurses who travel throughout Allegheny County.

As noted, while the parties are in agreement that the petitioned-for unit comprises a technical unit within the Board's Final Rule, the parties are in disagreement as to the unit placement of several employee classifications. In the rulemaking process, the Board discussed and analyzed a number of factors in support of its determination that technical employees at an acute care hospital constituted a separate appropriate bargaining unit.

Technical employees are found in major occupational groups including: medical laboratory, respiratory therapy, radiography, emergency medicine and medical records. The evidence presented at the hearings demonstrates that technical employees perform jobs involving the use of independent judgment and specialized training, as opposed to service and maintenance employees who generally perform unskilled tasks and need only a high school education [T]echnical employees occupy a high-prestige status distinct from other categories of non-professional employees because of the training requirements for their jobs.

Technical employees further are distinguished by the support role they play within the hospital, and by the fact that they work in patient care. Examples of their work include: routine clinical tests performed by medical laboratory technicians; general respiratory care administered by respiratory therapists; and x-rays, ultrasound procedures and CAT scans performed by various technicians.

⁷ The parties stipulated, and I find, that the Employer is a health care institution within the meaning of Section 2(14) of the Act.

. . . [A]t the hearings, the evidence shows that all health care technical employees have significant additional education and/or training beyond high school, including: community college associate degree programs which provide math and science background beyond that which high schools offer; vocational training programs run by hospitals; programs at accredited schools of technology and, in some fields, a full 4-year college degree.

Further, the evidence indicates that most hospital technical employees are either certified (usually by passing a national examination), licensed, or required to register with the appropriate state authority, although laws regarding such licensure, registration, training and qualifications vary throughout the country.

...Although, in general, hospitals apply similar benefit and labor relations policies to technical and other non-professional employees, the evidence shows that the wages and hours of technical employees differ significantly from those of the other non-professionals. ...On the average, technicians earn \$2,000 per year more than service workers in this industry.

...[T]echnicians' wages are tied to the earnings of the more highly skilled technologists with whom they work, and they generally earn approximately 75% of what the technologists earn.

. . . There is no temporary interchange, and little permanent interchange between technical employees and other non-professionals because of the difference in skills, the specialized functions of the technicals, and the differences in their education. ...Contrary to statements of industry witnesses who maintain that a service worker could take a six-week training program and be able to read EKG equipment, we are persuaded that technical training requires full or nearly full-time education, and a high school education does not provide the mathematics and science background necessary.

284 NLRB at 1553 – 1556.

As described previously, the parties are in agreement that a unit of technical employees is an appropriate one in accordance with the Board's Final Rule. However, there is disagreement between the Employer and the Petitioner with regard to the sixteen specific classifications at issue herein which are described above, as to whether or not those classifications appropriately belong in a unit of technical employees. In the case of each classification, one of the parties contends that the classification should more properly be

included in either a unit of professional employees or a residual unit of nonprofessional employees, while the other party asserts that the position should be included in a technical unit. Because each of these classifications is distinct from the others, I shall address each one individually herein.

OPERATING ROOM TECHNICIANS

The Petitioner asserts that the operating room, or surgical technicians ("OR techs") should be included in the petitioned-for unit. The Employer, however, contends that they are not technical employees and instead would be appropriately placed in a residual unit of nonprofessional employees.

There are two different categories of OR techs at the Employer's facility. The first type is case cart OR techs. These OR techs work under the supervision of Jolene Booker at Jefferson Hospital.⁸ Their job is basically to set up case carts for the operating room, in accordance with instructions generated by the medical doctors and/or nurses and provided to them by the unit clerk. The carts are generally prepared during the 3 p.m. to 11 p.m. shift. There are seven case cart OR techs, whose starting times are staggered throughout the day. They begin working any time from 7 a.m. to noon, or later. The carts that they are responsible to fill are stainless steel cabinets on wheels with doors. The techs receive a list from the unit clerk which describes what is needed for a particular procedure that is scheduled. The OR tech puts the necessary instruments and linens on or in the cart. If something on the list is missing, the OR tech makes a note of it. The tech then signs the list and wheels the cart down the hall to be transported to the operating room. Their duties also include examining, sorting, inspecting, lubricating and assembling instruments. In additions, the OR techs inventory and order

⁸ At the hearing, the parties stipulated, and I find, that Jolene Booker is a supervisor within the meaning of Section 2(11) of the Act, inasmuch as she has the authority, inter alia, to direct the work of employees and to discipline them.

replacements of orthopedic implants and stock emergency carts to be used in the event that some emergency takes place in the operating room.

On occasion, the case cart OR techs are requested to assist a physician in the operating room. This occurs about once every week or two. When this occurs, the OR tech may be asked to hold an instrument, such as a retractor, while the physician is performing a medical procedure.

The second category of OR tech are those that work in the operating room. There are 15 OR techs who work in the Jefferson Hospital operating room ("OR"), and six who work in the Jefferson Surgery Center. Most of these OR techs work full-time. In the OR, the techs are scheduled seven days a week, 24 hours a day. Only one OR tech is scheduled from 11 p.m. to 7 a.m.. The rest are staggered, beginning at 7 a.m. and ending by 11 p.m.. At the surgery center, which does mainly out-patient and same day procedures, the OR techs start either at 6:30 a.m. or at 9 a.m.. The surgery center is closed on the weekends. The job duties for the OR techs at both locations is quite similar.

In the OR, there is a "circulating" registered nurse in charge. The OR tech is responsible for setting up the sterile equipment for the operation. These include sponges, instruments, sutures, and so forth. The RN opens the trays and inventories the equipment and instruments with the OR tech. The OR tech often is the person who hands the instruments to the physician during the procedure. When laproscopic surgery is being performed, one OR tech may be handing the instruments to the physician while another OR tech is operating the camera.

Other duties of the OR techs include cleaning up after surgery. While housekeepers do the heavy cleaning, the techs clear out the soiled linens and remove the used instruments. They also call for the next cart to be delivered. The techs are responsible for understanding and following infection control policies. While an OR tech may offer suggestions as to the type of instruments to be used in a particular procedure, the RN and the physician have total control over these decisions.

All of the OR techs, whether assigned to case carts, operating room or surgery center, have the same requirements to be hired. The OR tech is required to have a high school diploma or equivalent and to have completed a surgical technician program or else have a minimum of one year experience as an OR tech. The surgical technician program includes, inter alia, courses in physiology, anatomy, biology and sterilization techniques⁹. There is a certification available through the Association of Surgical Technologists but this is not required.¹⁰ In addition, the Employer has an on the job training program which lasts between three months and one year. There is no temporary interchange between the OR techs who prepare the case carts and the techs who work in the operating rooms, but there have been occasional instances where an individual has permanently transferred from one position to the other. The OR techs earn an hourly rate which begins in the range of \$10.89 per hour.¹¹

In assessing the duties and qualifications of the OR techs, I find that they are technical employees, as asserted by the Petitioner. The Board has found that operating room or surgical technicians with comparable job duties and qualifications are appropriately included in technical units. Rhode Island Hospital, 313 NLRB 343, 354 (1993); Meriter Hospital, Inc., 306 NLRB 598, 600-601 (1992); William W. Backus Hospital, 220 NLRB 414, 418 (1975).¹² In Rhode Island

⁹ The surgical tech programs range in length from 9 months at a vocational school to two years at a community college. A nearby technical school offers a program which lasts 17 months. The programs also require an externship, the length of which was not revealed in the record.

¹⁰ None of the OR techs presently employed by the Employer have this certification.

¹¹ The wage rates for this classification, as with all job classifications at the Employer's facility, are based on market studies, comparing rates at other acute care hospitals. Consequently, the wage rates offered for the various positions are market-driven, and may not be directly related to the educational requirements and skills needed for a particular job.

¹² In its brief, the Employer cites St. Elizabeth's Hospital of Boston, 220 NLRB 325 (1975) and Barnert Memorial Hospital Center, 217 NLRB 775 (1975) in support of its contention that these OR techs should not be included in a unit of technical employees. In St. Elizabeth's Hospital of Boston, supra at 329, there is no evidence that the technicians therein had the same amount of training or the same amount of responsibility as the OR techs herein. Likewise, in Barnert Memorial Hospital Center, supra at 780, the OR techs who were excluded from the technical unit had job duties and qualifications similar to nurse's aides, while in the instant case, the OR techs have extensive training and experience. Thus, I do not find these two cases persuasive in the instant matter.

Hospital, supra, the job duties and requirements were quite similar to the OR techs herein. As in the instant case, the surgical technicians in that case were found to be skilled and were allowed some discretion in their work. They were also required to have specialized training provided by the hospital of between three months and one year, just as the Employer herein requires.

As set forth more fully above, the OR techs are responsible for the preparation and maintenance of instruments, equipment and supplies used in the operating room. They work along with the medical doctor in the operating room, holding instruments, handing supplies and instruments to the physician and operating the camera. They have specialized training and apply this training to the performance of their jobs. They use discretion in the manner in which they adjust to individual physician's preferences.

Accordingly, based on the above and the record as a whole, I find that the OR techs are technical employees and I shall include them in the petitioned-for unit.

CARDIOLOGY TECHNICIANS

The petitioner asserts that the cardiology, or EKG technicians ("EKG techs") should be included in the unit of technical employees. Contrary to the Petitioner, the Employer contends that the EKG techs are not technical employees and therefore that they should be excluded from the petitioned-for unit.

There are six EKG techs, all of whom work at Jefferson Hospital. They are based in the cardiology department on the first floor, but perform their job duties throughout the hospital building. In addition, the EKG techs assist with stress tests, which are taken in the nuclear medicine department, also on the first floor of the hospital. The EKG techs work only daylight. There are usually four and one half EKG techs scheduled each day. The techs work with an EKG cart, which they wheel around to the locations where they are needed.

The job duties of the EKG techs include setting up the EKG machines for the test, preparing the patient for the test, monitoring the testing, and explaining to the patients how the

treadmill test is performed. The results of the EKG are printed on a tape, which is given to the medical doctor or to a nurse. The EKG tech does not interpret the results of the test.

The out-patient testing is done in the cardiology department, while for in-patients, the EKG tech wheels the cart to a patient's room. The test takes approximately twenty minutes to administer. The EKG techs can administer an average of 20 to 30 EKGs per day. Although the tech does not read the results, if the EKG tech becomes aware of an unusual occurrence while the test is taking place, the EKG tech would contact a nurse or physician.

The EKG technicians are required to demonstrate knowledge generally acquired through graduation from high school and skills typically acquired by attending 13 to 24 months of training in a program in cardiology, specifically stress tests and EKG interpretation. There is also a requirement that the EKG tech have two years of prior experience and at least one year of experience doing stress testing. There is no license, certification or continuing education requirement for the position. The pay range for the EKG tech begins at \$9.81 per hour.

In the instant case, I find that the cardiology technicians are not technical employees. The job requires no advanced degree, no license or certification; in fact, they are not even required to have a high school diploma. All of the technicians presently in this position were trained on the job. The EKG techs only administer the test; they do no interpretation of the results.¹³ They are not required to have the advanced training or use independent judgment which is required for a finding that they are technical employees. The Board has repeatedly found, in similar factual situations, that EKG technicians are not included in a unit of technical employees. Southern Maryland Hospital Center, Inc., 274 NLRB 1470, 1473 (1985); Children's Hospital of Pittsburgh, 222 NLRB 588, 594 (1976); St. Elizabeth's Hospital of Boston, supra, 220 NLRB at 329; Trinity Memorial Hospital of Cudahy, Inc., 219 NLRB 215, 218 (1975).¹⁴

¹³ In its brief, the Petitioner points out the job requirement regarding EKG interpretation. However, I find this point unpersuasive inasmuch as the record reflects that the EKG techs herein do not interpret the tests as part of their job duties.

¹⁴ In its brief, the Petitioner attempts to distinguish the instant case from the many cases which find EKG techs not to be technical employees. It relies primarily on the fact that at SHHS, the EKG technicians must have more experience and some additional training as a requirement for the position. However, the

Accordingly, based on the above and the record as a whole, I find that the cardiology, or EKG, technicians are not technical employees and thus I shall exclude them from the petitioned-for unit.

ANESTHESIA TECHNICIANS

As previously described, the Petitioner asserts that the position of anesthesia technician ("anesthesia tech") is a technical one and should be included in the unit herein. Contrary to the Petitioner, the Employer contends that the position is not a technical position and thus should be excluded from the petitioned-for unit of technical employees. The Employer employs two anesthesia techs, one full-time and one part-time, who work in the operating room at Jefferson Hospital. This is a relatively new position; the Employer has only had this classification for about two years. The anesthesia techs work with the anesthesiologist, who is a medical doctor, and a certified registered nurse anesthetist (CRNA). These technicians work the daylight shift, either from 6:30 a.m. to 3 p.m. or from 7 a.m. to 3:30 p.m..

The basic job duties of the anesthesia tech is to assist the physician while the patient is being given anesthesia. In this regard, they hold the patient while the needle is being inserted, turn the patient when needed, prepare equipment such as tube, laryngoscopes, tape, and so forth, hang IVs on a pole, and prepare the patient and the room for the procedure. If instructed by the physician or CRNA to prepare the IV, the anesthesia tech may clean the skin of the patient, apply a tourniquet and insert the IV in the vein of the patient. They make sure the proper equipment is in the room before the anesthesia, discard used equipment and supplies when the anesthesia is completed, obtain the supplies for the next patient and make sure that the room is stocked with the necessary supplies and equipment for the day's case load.

The full-time anesthesia tech is presently being trained to perform intubations. The training is being done by Dr. Pappas, the Employer's chief anesthesiologist. Intubation involves a procedure after an IV is inserted, whereby a tube is placed down the patient's throat, and a

duties of the EKG techs in the cited cases as well as the present case do not require the skill and judgment necessary to find a technical position. Thus, I find the Petitioner's argument unconvincing.

bag is attached which is inflated, and is manually squeezed to actually breathe for the patient. However, it is the Employer's position that the anesthesia tech will not be allowed to perform intubations, only to assist with them.

The requirements to be an anesthesia tech at the Employer's facility are to possess an Associate degree as an anesthesia tech. There is no license, certification, prior experience or continuing education requirement for this position. The wage rate is a range that begins at \$9.81 per hour.

It appears that the Board has not yet considered the issue of whether anesthesia techs are technical employees. In the instant case, the anesthesia techs are required to have a two year Associates degree to qualify for the position. They also can start IVs by themselves, and assist in more complex procedures with the anesthesiologists. It appears that the job duties of the anesthesia techs are similar to those of the operating room technicians, who I have decided herein are technical employees. Because of their advanced education and the technical skills involved in their work, I find that the anesthesia techs in this case are technical employees.

Accordingly, based on the above and the record as a whole, I shall include the anesthesia techs in the petitioned-for unit.

PHLEBOTOMISTS

The Petitioner, as described previously, asserts that the position of phlebotomist should be included in the unit of technical employees herein. To the contrary, the Employer asserts that the position of phlebotomist is not a technical position, and therefore should be excluded from the petitioned-for unit.

The Employer employs three different positions of phlebotomists, all of whom do basically the same work in different settings. These are laboratory phlebotomist, mobile laboratory phlebotomist and multi-test technician. There are 33 phlebotomists in the positions

in the laboratory and mobile laboratory.¹⁵ They report to a laboratory in the hematology department on the second floor of Jefferson Hospital. The phlebotomists generally work the daylight shift. Some only work part-time, in the mornings.

The major job duty of the laboratory phlebotomists is to collect blood. The department's computer generates labels for the tests to be done on a given day. The phlebotomists on duty divide up the labels and make rounds on the patient floors. They bring phlebotomy trays, which are stocked with needles, tubes, alcohol, bandages and so forth. They also bring various chemicals that might be needed to add to the blood samples for certain tests. The rounds generally begin at about 5:30 a.m., and the collection is complete by about 7:30 a.m..

The phlebotomist goes to the patient's room, in accordance with the label that was generated. The phlebotomist checks the label, decides what size needle is appropriate, draws the blood, adds any type of additive called for, puts the label on the tube and returns to the department. Once back at the department, the phlebotomist logs the blood specimen into the computer, wraps the sample in bubble wrap and places it in a pneumatic tube system where it is transported to the testing area.

Other duties of the phlebotomists include pricking fingers for glucose readings, adding chemicals to stool samples provided by the nursing staff, ordering supplies for their work and training other employees in proper methods for drawing blood. Another type of test which they sometimes perform is a bleeding test, wherein the phlebotomist attaches a blood pressure cuff on a patient, makes an incision, times the bleeding from start to finish and records the results in a computer.

The mobile laboratory phlebotomists do approximately the same type of work, but perform these duties off site. About five to seven of the phlebotomists each day travel to patients' homes and to nursing homes, and then bring the results back to the department in the

¹⁵ The record does not reflect how many multi-test technicians are employed by the Employer.

hospital. Once they return to the facility, these mobile laboratory phlebotomists perform the same duties as those who work in the hospital.

The third type of phlebotomist is the multi-test technician or phlebotomist ("multi-test"). These phlebotomists also do the same type of blood work as the others, but also do other types of tests which do not necessarily involve drawing blood. In this regard the multi-tests do blood tests, throat cultures, nose cultures, urine cultures, and so forth. The only type of test that the multi-tests analyze themselves are the glucose tests. The laboratory phlebotomists sometimes rotate to work as multi-tests, particularly on the weekends.

None of the various types of phlebotomists are permitted much discretion in their work. Other than deciding what size needle is to be used on a patient, the phlebotomists' work is assigned and cannot be altered by them. The Employer has a policies and procedures manual which the phlebotomists must follow, which outlines all of the tasks that they are assigned to perform. The tests that they perform are ordered by medical doctors and generated onto labels, which determine what the phlebotomists must do each day.

The requirements for the position of phlebotomist are to demonstrate the knowledge acquired through a high school diploma or a GED, and some advanced knowledge or skill acquired either by attending a phlebotomy program or a medical assistant program and obtaining a certificate from either of these programs. The phlebotomy program locally at the community college is a 12 week course and an externship of 3 to 4 weeks. There is no license or continuing education requirement. Recent externship or work experience in the field is preferred but not required. The wage rate for phlebotomists is a range beginning at \$8.84 per hour.

The work of the phlebotomists herein is very similar to that of the phlebotomists in Southern Maryland Hospital Center, Inc., supra, 274 NLRB at 1474-1475. In that case, the work performed was similar, as was the required training. The Board found that the phlebotomists were not technical employees because of the lack of specialized training, the relatively simple tasks performed and the lack of use of independent judgment. Id. See also, Middlesex General

Hospital, 239 NLRB 837, 838 (1978). Similarly, in the present case, the phlebotomists have very little specialized training, do relatively simple tasks using uncomplicated equipment and have virtually no opportunity to exercise independent judgment.¹⁶

Under these circumstances, based on the above and the record as a whole, I find that the position of phlebotomist is not a technical one and therefore I shall exclude phlebotomists from the petitioned-for unit.

EMERGENCY ROOM TECHNICIANS

The Petitioner contends that the emergency room technicians (“ER techs”) should be included in the petitioned-for unit. The Employer, contrary to the Petitioner, contends that the ER techs should be excluded from a unit of technical employees inasmuch as it asserts that they are nonprofessional employees and thus should be in a residual nonprofessional unit.

The Employer employs eight ER techs who all work at Jefferson Hospital. ER techs are scheduled to work seven days a week. On weekends, they work 24 hours a day, and on weekdays, they work 20 hours, with no ER techs scheduled to work between 5 a.m. and 9 a.m.. There are three full-time, three part-time and two casual ER techs.

When a patient comes into the emergency room, the ER tech may be the first contact between the Employer and the patient. The ER tech does an initial assessment of the problem, takes vital signs, applies oxygen when needed, does blood work, obtains a medical history and drug allergy information, receives information from the ambulance service as to what treatments were already done for the patient and removes the patient’s clothing for the medical treatment in the emergency room. The ER tech has the authority to order an EKG where appropriate, do

¹⁶ In its brief, the Petitioner attempts to distinguish the cases cited herein from the present situation. However, I find these attempts unconvincing. Thus, there is no evidence that additional tests done by the phlebotomists at SHHS require any additional training or skill to perform them. Further, the Petitioner argues that phlebotomists use independent judgment in choosing the proper size needle and choosing which vein to puncture. I find these to be examples of minimal decision-making based on routine experience and very little training. Therefore, I find the arguments of the Petitioner with regard to the phlebotomists unpersuasive.

triage, and give shots and tetanus boosters. The information gathered by the ER tech is recorded on the patient's flow sheet. The ER tech also assigns a color code to the patient's condition which indicates the immediacy of the condition. If the code is red, the patient will be given higher priority for treatment than if the code is green. In assigning a color code, the ER tech is following pre-established guidelines.

Another aspect of the duties of the ER tech is to restock the emergency room with such items as phlebotomy tubes, monitoring equipment, bed pans, suture carts and so forth. The ER techs may assist, but are not required to do so as part of their duties, with the cleaning of the emergency room and the transporting of patients to other areas of the hospital. The ER techs are also permitted to remove sutures from patients. In addition, they can assist with broken bones and can splint fractures, wrap ace bandages and prepare trays for dressings and lacerations. They also transport patients to various departments within the hospital.

To qualify to be an ER tech, the Employer requires a high school diploma plus completion of either an emergency medical training (EMT) or medical assistant program, or completion of a state approved certified nursing assistant (CNA) program¹⁷. Six of the eight present ER Techs have the EMT background. Prior to about 1992, the Employer did not have the position of ER tech; it used instead CNAs. About half of the present ER techs are CNAs who have worked in the emergency room for many years. The pay scale for ER techs is a range which begins at \$8.84 per hour.

The Board has considered the position of ER techs in two decisions. In The Jewish Hospital Association of Cincinnati d/b/a Jewish Hospital of Cincinnati, 223 NLRB 614, 621 (1976), the Board found that emergency service technicians were technical employees. In that case, the ER techs had to have experience as a medical corpsman or have two years of on the job training. However, in Jewish Hospital of Cincinnati, supra, the Board noted that the ER

¹⁷ The EMT training is generally administered through a community college and involves eight to twelve weeks of training, with an examination administered by the Commonwealth of Pennsylvania. The CNA program involves a one year training program through a vocational-technical school, and a 540 hour on the job training program administered by the Employer.

techs were used interchangeably with licensed practical nurses, and, in fact, received the same pay rate as the LPNs.¹⁸

In the second case in which the Board considered this classification, Southern Maryland Hospital Center, Inc., supra, 274 NLRB at 1474`, the Board excluded the ER techs from a technical unit in a situation similar to the instant one. In Southern Maryland Hospital Center, supra, the qualification for the position was either a high school diploma or experience as a medical corpsman. In that case, as in the present one, the ER techs performed routine procedures that do not require independent judgment. Supra at 1474.

In the present case, the job requires some training beyond high school, either completion of EMT training, completion of CNA training or completion of a medical assistant program. However, this type of training is also required for positions which are generally included in nonprofessional residual units in health care cases. See generally Vencor Hospital – Los Angeles, 324 NLRB 234, 235, fn.2 (1997). The job duties, as described above, are circumscribed and do not involve the use of independent judgment. Unlike the situation in Jewish Hospital of Cincinnati, supra, there is no evidence that the ER techs perform the same duties as LPNs, and the pay rate is considerably lower than that of LPNs. Thus, I find the ER techs in the instant case more similar to those in Southern Maryland Hospital Center, supra, and I find the ER techs in this case are not technical employees.

Consequently, based on the above and the record as a whole, I shall exclude the ER techs from the petitioned-for unit of technical employees.

PHARMACY TECHNICIANS

The Petitioner contends that the pharmacy technicians (“pharmacy techs”) are technical employees and should be included in the unit herein. The Employer, to the contrary, asserts

¹⁸ In the instant case, the LPNs receive a wage rate which begins at \$10.89, over two dollars more per hour than the ER techs. Herein, the parties stipulated that the LPNs were technical employees and the Board, under the Final Rule, has consistently found LPNs to be technical employees.

that the pharmacy techs are not technical employees and thus should be excluded from the petitioned-for unit.

There are 17 pharmacy techs employed at the Employer's facility. They work in the pharmacy department, which consists of a pharmacy director, a pharmacy manager, a pharmacy tech supervisor, two pharmacy team leaders and the 17 techs.¹⁹ The basic duty of the pharmacy techs is to fill orders for medications from the hospital patient floors.

The techs in the pharmacy often answer telephone calls from nursing units in the hospital, calling in orders for medications. The pharmacist enters the information into a computer, which generates a label for the medicine. The pharmacy tech takes the label, pulls the medication from the shelves, packages the amount ordered and places the label on it. The order is then given to the pharmacist to check before it is delivered to the nursing unit. The medications are generally delivered by aides or else are sent through the pneumatic tube system.

Some of the packaging prepared by the pharmacy techs is allotted in daily doses, so that the patient can be credited with the unused portion when the patient is discharged. The techs also have carts which the aides take around to the nursing units daily, which are filled with commonly used medications on the floors. The pharmacy techs are responsible for stocking these carts. Each patient on a floor has a drawer in the cart, and the tech is responsible for making the changes to the drawers when patients are discharged and/or new patients are admitted. All orders filled by the pharmacy techs are checked by the pharmacist and then checked again by the nurses on the floors.

Another duty of the pharmacy tech is to prepare IV solutions. In this regard, the pharmacist generates a label from the computer, as is done with all medications. Some of the IVs are pre-packaged, so the pharmacy tech merely puts a label on the package. Other IVs

¹⁹ At the hearing, the parties stipulated, and I find, that the pharmacy director, pharmacy manager, pharmacy tech supervisor and team leaders are supervisors within the meaning of Section 2(11) of the Act, inasmuch as they have the authority, inter alia, to discipline and direct the work of employees.

come in powder or liquid form and need to be reconstituted and/or diluted. The tech mixes up the solutions using a filter in a sterile area. The bag is then sealed and labeled. The tech will check the IV solution to make sure the expiration date has not passed or that it shows signs of deterioration. The pharmacy techs sometimes deliver the IV solutions to the nursing floors after they are checked by the pharmacist. Also, the tech occasionally prepares irrigation solutions used to flush a site. The pharmacy techs do not assist in the preparation of chemotherapy mixtures; those are prepared only by the pharmacists.

The position of pharmacy tech requires a high school diploma or its equivalent and one year or more experience, or to be entering the third year of study in a pharmacy program or an Associate degree in a pharmacy technician program. All but two of the pharmacy techs herein have a two year degree. A pharmacy technician certificate is preferred but not required, and about two-thirds of the Employer's pharmacy techs have such certification. In order to keep the certification, the pharmacy tech must take 20 hours of continuing education every two years. The wage rate for pharmacy techs is a range beginning at \$9.81 per hour.

The Board has considered the status of pharmacy technicians in several cases. In Rhode Island Hospital, supra, 313 NLRB at 356, the Board found the pharmacy techs not to be technical employees where the pharmacy techs, as in the instant case, assisted the pharmacist in the preparation, dispensing and delivery of medications. In that case, the techs were required to have either one or two years of college or comparable work experience and, in addition, were required to complete a 15 week in-house training course. In Meriter Hospital, Inc., supra, 306 NLRB at 601, the pharmacy techs were also excluded from a technical unit, where, as in the present case, the pharmacy techs prepared IV mixtures, processed prescriptions, and kept inventory. See also, Southern Maryland Hospital Center, Inc., supra, 274 NLRB at 1474.

On the other hand, in Duke University, 226 NLRB 470, 472 (1976), the Board found the pharmacy technicians to be technical employees. In that case, the pharmacy techs had to complete a six month certification course and have on the job training. It appears, however, that the successful completion of a pharmacy technician training program does not, based upon

recent Board decisions, compel or warrant the conclusion that pharmacy technicians are technical employees. Rhode Island Hospital, supra; Meriter Hospital, Inc., supra. In those cases, the pharmacy techs filled prescriptions and mixed IV solutions, but always under the supervision of and close scrutiny of the pharmacists.

In the present case, the pharmacy techs similarly work in close association with and under the direct supervision of the pharmacist, who checks all of their work. When they fill the prescriptions and prepare IV solutions, their work is reviewed by the pharmacist. The pharmacy techs watch for errors, expiration dates and deterioration of IV solutions, which they then report to the pharmacists. Thus, the pharmacy technicians are responsible for reporting such conditions but have no discretion to take any further action in this regard.

Accordingly, based on the above and the record as a whole, I find that the pharmacy technicians are not technical employees and thus I shall exclude them from the petitioned-for unit.

MEDICAL TECHNOLOGISTS

The Petitioner asserts that the position of medical technologist is a technical one and should be included in the unit herein. The Employer contends that the medical technologist position is a professional one and therefore should be excluded from the petitioned-for unit.

The Employer employs approximately 17 medical technologists (“technologists”) who work in the laboratory at the hospital. The work in the laboratory is done seven days a week, 24 hours a day.²⁰ The technologists work beside medical laboratory technicians (“MLTs”) in one of the areas of the laboratory.²¹ The only other employees assigned to work in the lab are supervisors, whose work area is separate from the area where the MLTs and technologists

²⁰ There are four technologists and four MLTs who work the afternoon and evening shifts, usually four on each shift. However, the ratio of technologists and MLTs on a given shift varies.

²¹ At the hearing, the parties stipulated that the MLT’s are technical employees and are included in the petitioned-for unit.

perform their work. The Employer's laboratory is divided into five areas, each of which performs different types of testing. The chemistry area is the largest one in the lab. The day shift commonly has two technologists and three MLTs scheduled to work in this area. The MLTs and technologists use analyzers which do various tests, such as glucose, creatine, lipids and so forth. The second area is hematology, where the day shift has about two technologists and two to three MLTs. In this area, the tests that are done are mainly complete blood counts (CBCs), urinalysis, and blood and body fluids. The third area is the blood bank, which usually has two technologists and three MLTs scheduled during the day shift. There are two basic functions in the blood bank: coagulation testing, which is automated, and typing, screening and matching of blood types, which is done manually. The fourth area, microbiology, has one or two technologists and two to three MLTs during the day. They grow specimens to perform serological testing for syphilis, HIV, pregnancy, mononucleosis and other such conditions. The fifth area, histology, is physically located across the hall from the other parts of the lab.²²

The major function of the technologists is to perform tests on blood and body fluids. In this regard, they often perform the same tasks as the MLTs. They operate the appropriate laboratory equipment and follow policies and procedures in accordance with the Employer's manuals. They also clean, calibrate, repair and maintain the equipment in the lab. They also determine proper methodologies for testing, make decisions whether to re-run tests if the results appear questionable and report malfunctioning equipment to the supervisors.

There are also certain duties which the technologists perform which the MLTs do not. The technologists, but not the MLTs, do training and write procedures on new equipment and methods. They help to develop new procedures and guidelines to be followed when new equipment is introduced. The technologists also train new hires. Also, the technologists, but not the MLTs, make decisions in the laboratory work as to whether or not a specimen is viable, i.e., whether it is too old, or blood does not have clots, or there are too many fibrants in the

²² The record does not reflect what type of laboratory work is performed in the histology area.

chemistry area tests. The technologists calibrate the equipment and have been trained by the vendors on the new analyzers, to test them for quality control. The technologists review the department's manuals regularly and conduct inservice programs for the rest of the staff. Six of the technologists are assigned to do statistical studies on an ongoing basis.

The position of technologist requires a Bachelor's degree in medical technology or in chemistry, biology or microbiology. Less than 12 months of experience is also required. In addition, the technologist must be certified as a medical technologist by the American Society of Clinical Pathologists (ASCP), or have a specialty certificate from ASCP in hematology, or be eligible for certification. To be certified, the candidate must pass a written examination. In order to qualify to sit for the examination, the individual has to have 18 months of clinical training and have taken certain college courses in areas such as chemistry, biology, mathematics and so forth.²³ The technologists are paid a wage rate in a range that begins at \$14.89 per hour.²⁴

In deciding unit placement issues involving medical technologists, the Board has adopted a rebuttable presumption that medical technologists are professional employees. Group Health Association, Inc., 317 NLRB 238, 244 (1995). See also, Illinois Valley Community Hospital, 261 NLRB 1048, 1049 (1982); Compton Hill Medical Center, 251 NLRB 1547, 1548 (1980).²⁵ The party seeking to rebut this presumption carries the burden of establishing that the medical technologists do not engage in the duties which are customarily assigned to this classification. Group Health Association, Inc., supra at 244.

In the instant case, the Petitioner is asserting that the technologists are not professionals, but properly belong in a unit of technical employees. However, I find that the presumption that technologists are professional employees has not been rebutted herein. At

²³ The requirements for an MLT are the completion of a two year program, such as an Associate degree, beyond high school, and certification by ASCP as a medical laboratory technician.

²⁴ The MLTs, by comparison, are paid in a range that begins at \$12.09 per hour.

²⁵ The Board has repeatedly found MLTs to be technical employees. Children's Hospital of Pittsburgh, supra, 222 NLRB at 591; William W. Backus Hospital, supra, 220 NLRB at 417; Trinity Memorial Hospital of Cudahy, supra, 219 NLRB at 218; Mad River Community Hospital, 219 NLRB 25 (1975).

the Employer's facility, the technologists have many more responsibilities and qualifications for their position than do the MLTs. In this regard, the technologists are required to have a Bachelor's degree, rather than a two year degree, as required of the MLTs. Moreover, the technologists have many additional job responsibilities than those of MLTs, and many of these duties require the use of independent judgment. The technologists write the policies and procedures manuals, train new and existing staff, take part in ongoing statistical studies, decide if samples are viable or not, evaluate, monitor and calibrate analyzers, and investigate and collect data on perceived problems with laboratory equipment.

Further, the presumption must be overcome not by a comparison of the technologists' duties to those of the MLTs, but rather by an evaluation of the duties of the technologists as compared to the duties of other medical technologists. At SHHS, the technologists perform duties typical of medical technologists at other facilities. In this regard, they perform laboratory testing, use both automated and manual equipment and calibrate the laboratory equipment. They are responsible, in large part, for testing, methodology, processes, quality control, and maintenance of the laboratory facility and equipment. Although some of their work involves routine and even nonprofessional tasks, this alone does not detract from their status as professionals since many of their duties involve intellectual activity. Thus, I find that the presumption that the medical technologists are professional employees has not been rebutted herein.²⁶

Accordingly, based on the above and the record as a whole, I find that the medical technologists are professional employees and therefore I shall exclude them from the petitioned-for unit.

²⁶ In its brief, the Petitioner argues that the presumption that technologists are professional employees is overcome in this case because they do the same laboratory testing as the MLTs. However, as explained above, this alone is not sufficient to overcome the presumption. In fact, the technologists do have additional duties and responsibilities that the MLTs do not have. More significantly, however, the Petitioner has not established that the technologists herein do not perform duties customarily assigned to medical technologists, which is necessary to overcome the presumption of professional status. Group Health Association, Inc., supra at 244.

RESPIRATORY THERAPISTS

The Petitioner asserts that the respiratory therapists at the Employer's facility are technical employees and should be included in the unit herein. To the contrary, the Employer contends that the respiratory therapists are professional employees and consequently that they should be excluded from a unit of technical employees.

There are approximately 20 respiratory therapists employed at the Employer's facility. These therapists work in several different locations, including the pulmonary rehabilitation department, the Willis Nursing Home ("Willis"), the Sleep Disorder Center ("sleep lab"), the medical-surgical units, the intensive care unit and the operating room at Jefferson Hospital. They work with approximately 16 respiratory therapy technicians.²⁷ They administer and monitor respiratory care to patients with pulmonary problems and oversee sleep studies in the sleep lab. The respiratory therapists work out of the respiratory care department in the hospital, but spend little of their time there. They report to the department, pick up their assignments for the day, and move throughout the facility providing patient care.

Willis is a skilled nursing ventilator facility. As a result, there are patients staying at that facility who have been transferred from other locations because they need mechanical assistance in their breathing. There is one respiratory therapist assigned to Willis on every shift, 24 hours a day. The ventilators must be checked regularly by therapists and technicians. In addition, the therapists and technicians make adjustments to the ventilators, set up oxygen when needed, clean equipment, and keep records and do billings.

In the sleep lab, three respiratory therapists are assigned, two at night and one during the day. The sleep lab is located on the second floor of the hospital. At night, patients arrive from their homes who are having sleep problems. The therapist orients the patient, who is to

²⁷ At the hearing, the parties stipulated that the respiratory therapy technicians are technical employees and are included in the petitioned-for unit.

spend the night. The therapist attaches various monitors to the patient, which are analyzed throughout the night by the therapist. The test results are interpreted by medical doctors. The tests are used to diagnose sleep disorders such as sleep apnea. The daylight therapist performs other types of tests to diagnose problems such as narcolepsy. The daylight therapist also scores some of the tests performed during the night, and schedules patients for appointments.

The pulmonary rehabilitation department, on the third floor of the hospital, provides cardiac rehabilitation services. The respiratory therapists there assist patients with pulmonary conditions in exercise, education, diet, nutrition and so forth. The patients who come to this department are both in-patient and out-patient. There is one full-time and one part-time respiratory therapist assigned each day to this location. The therapists, together with a pulmonary rehabilitation nurse, assess the patient, establish a program for them, explain how to use the equipment and monitor the patient while using the equipment.

In the operating room, where the respiratory therapists rotate regularly, some of the therapists can do intubations, which involves inserting a breathing tube in a patient and pumping air through it to cause the patient to breathe mechanically. In the operating room, the respiratory therapists work under the guidance of the medical doctors, although the therapists have some independent discretion in their work. They set the flows on the volume of oxygen given to patients, perform suctioning, patient positioning, adjustments in flow rates, water temperature and tension and direction of tubing. The therapist also obtains blood to analyze blood gases in a special analyzer.

On the medical-surgical floors, the respiratory therapists check on in-patients and perform exercises at the bedside to improve the pulmonary functions. They listen to the patients' lungs, monitor and record results, and put the information in the patients' charts. They also dispense medications prescribed by the physicians. Other duties which are performed by the respiratory therapists include training other staff and new employees in the department.

The position of respiratory therapist requires an Associate degree or specialized training of 25 to 36 months in respiratory therapy. In addition, the individual must have a current respiratory care practitioner license from the Commonwealth of Pennsylvania and have a registered respiratory therapist registration from the National Board of Respiratory Care. A written examination must be passed in order to obtain this registration. The wage rate for respiratory therapists is a range beginning at \$14.89 per hour.

In analyzing the classification of respiratory therapists, the Board has consistently included them in technical units. Children's Hospital of Pittsburgh, supra, 222 NLRB at 593; St. Elizabeth's Hospital of Boston, supra, 220 NLRB at 327; William W. Backus Hospital, supra, 220 NLRB at 417; Trinity Memorial Hospital of Cudahy, supra, 219 NLRB at 216.

In the instant case, while the pay rate and the educational requirements of the respiratory therapists are slightly higher than those of the respiratory technicians, many of the duties performed by these two classifications are identical. I find that the job duties of the respiratory therapists at SHHS do not require a finding that they are professional employees. The therapists maintain and operate equipment throughout the hospital and Willis which aids patients with breathing and assesses the patients' breathing problems. They train patients in exercises and the use of equipment to alleviate or correct their pulmonary problems. They monitor the equipment used by patients in the nursing home and patients attending the sleep lab. While they may advise nurses and physicians as to the progress of the patients they monitor, the respiratory therapists' duties do not require such use of independent judgment, nor are their duties primarily intellectual and varied in nature, as required for a finding that they are professional rather than technical employees.²⁸

Accordingly, based on the above and the record as a whole, I find that the respiratory therapists are technical employees and I shall include them in the petitioned-for unit herein.

²⁸ While the Employer argues in its brief that the respiratory therapists are professional employees, there are no cases cited which support its position. Further, the arguments in this regard by the Employer are conclusory and I find insufficient evidence that the respiratory therapists primarily perform duties intellectual and varied in nature which require the use of discretion and independent judgment.

MUSIC THERAPIST

As previously noted, the Employer would include the music therapist in the unit of technical employees, while the Petitioner asserts that the music therapist is a professional employee. There is one music therapist, Ann Marcenko, employed by the Employer, who works at Jefferson Hospital. The music therapist is a part-time position, working approximately 18 hours each week. Marcenko's hours are flexible and somewhat self-determined, but she usually comes in for several hours three days each week. She works as part of a team together with the occupational therapy and physical therapy departments, as well as psychiatrists, medical doctors and social workers to use musical activities to promote physical, social and psychological changes in patients. Some of the activities provided by Marcenko are in groups and some are done individually.

Marcenko attends meetings with the other therapists on the team, wherein patient progress and therapy methods are discussed and evaluated. Marcenko keeps anecdotal records which are inserted into the patient's records. Although she sometimes performs the music therapy in an individual patient's room, most of her work is done in one of the two hospital gymnasiums. Most of the music therapy is done in conjunction with physical therapy exercises.

In order to be a music therapist at the Employer's facility, the individual is required to be a certified music therapist. This certification is issued by the National Board of Music Therapists. In order to obtain the certification, the music therapist must possess a Bachelor's degree in music therapy, and must have completed an internship of one to two years and pass a written examination. In addition, in order to retain the certification, the music therapist must take 100 hours of continuing education credits every five years and retake the written examination every five years. The music therapist's pay rate is in a range that begins at \$13.41 per hour.

Section 2(12) of the Act defines a professional employee as one, inter alia, who engages in work that is predominantly intellectual and varied in nature, as opposed to routine, manual, mechanical or physical work; consistently exercises judgment and discretion in performing the work; performs the type of work whose output or results cannot be standardized in a given period of time; performs work whose performance requires knowledge of an advanced type customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital. Applying that definition to the position of music therapist, I find that the music therapist is a professional employee within the meaning of the Act. The music therapist is required to have advanced education which is applied in the work performed. She applies this training as part of her work. The work is intellectual and requires independent judgment and discretion. See, e.g., Mount Airy Foundation d/b/a Mount Airy Psychiatric Center, 253 NLRB 1003, 1005 (1981) and cases cited therein; Milwaukee Sanitarium Foundation, Inc., d/b/a Milwaukee Psychiatric Hospital, 219 NLRB 1043 (1975).²⁹

Based on the above and the record as a whole, I find that the music therapist is a professional employee and thus shall be excluded from the petitioned-for unit of technical employees.

ATHLETIC TRAINERS

As noted, the Employer would include the position of athletic trainer in the petitioned-for unit, while the Petitioner would exclude this position from the unit inasmuch as it contends that the individuals in this position are professional employees. The Employer employs three athletic trainers, one who is full-time, one who is part-time and one who is a casual. The athletic trainers spend most of their working time at one of three high schools in the area: West Mifflin

²⁹ In its brief, the Employer refers to Milwaukee Sanitarium Foundation, Inc., d/b/a Milwaukee Psychiatric Hospital, supra, and states that, in that case, the Board opined that individuals in the music therapist classification would perhaps most appropriately be classified as technical employees. I find this to be an inaccurate interpretation of the Board's opinion in that case. The Board therein states that the music therapists work "...at levels characteristic of technical, if not professional, employees." Id. at 1043 (underscoring added).

High School, Clairton High School and Thomas Jefferson High School. Their hours, therefore, are flexible, and often they begin working in the early afternoon and end in the evening. The Employer has contracts with the respective school systems to provide the services of the athletic trainers.

The athletic trainers attend the practice sessions of various athletic teams at the high schools. They counsel the staff and players in preventive techniques to avoid injuries, analyze and modify the equipment and the field, recognize and evaluate injuries, administer first aid and refer injured players to the appropriate places for care and rehabilitation of injuries. They also offer themselves as speakers to groups to promote public awareness of prevention of injuries during athletic endeavors. About ten percent of their time is spent at the Employer's sports medicine center. They assist medical doctors in pre-season physical checkups and do testing on joints.

The athletic trainers have Bachelor's degrees and have an "A" level license from the Commonwealth of Pennsylvania, in accordance with the Physical Therapy Practice Act.³⁰ They are also required to have passed an examination given by the National Athletic Trainers Association (NATA). In order to be qualified to sit for the examination, an individual must either have completed a college degree or an 1800 hour internship in the field. There is no continuing education requirement. The classification of athletic trainer is paid within a salary range that begins at \$14.89 per hour. They work under Robert Stahara, the Director of Physical Therapy and Sports Medicine, but because the athletic trainers work independently off-site most of the time, Stahara usually only sees them at monthly staff meetings.

In evaluating the job duties of the athletic trainers, I find that their duties and background indicate that they are professional employees within the meaning of the Act. Although somewhat more limited, their job requires many of the same skills and judgments utilized by

³⁰ Athletic trainers with an "A" level license are permitted to perform the same modalities, or treatments, on individuals as do physical therapists. In order to receive a Class "A" rather than a Class "B" license, the individual must have completed approximately 60 more hours of college credits.

physical therapists, who the Board has consistently found to be professionals. See Mount Airy Psychiatric Center, supra, 253 NLRB at 1005; Sutter Community Hospitals of Sacramento, 227 NLRB 181, 187 (1976). The athletic trainers are required to have an advanced degree and licensure, use independent judgment and discretion in their work, and perform work that is primarily intellectual and varied in nature.

Accordingly, based on the above and the record as a whole, I find that the athletic trainers are professional employees and therefore should be excluded from the petitioned-for unit.

MEDICAL RECORDS CODERS

The Employer, contrary to the Petitioner, would include the position of coder in the Medical Records Department in the petitioned-for technical unit. The Petitioner asserts that the coders are business office clericals rather than technical employees and thus should be excluded from the unit.

There are 13 coders employed by the Employer in the medical records department. The coders work in a medical office building adjacent to the hospital. Since the medical records are kept in the hospital, the coders often go back and forth between the buildings. The basic function of the coders is to take information from the patients' medical records and assign a code to each diagnosis and procedure. The codes are then given to a clerk who enters them into a computer to produce a bill. The codes, called ICD9-CM codes, are used internationally and are primarily utilized to obtain reimbursement from Medicare and/or insurance companies. Medicare and other insurance payers require very specific information and documentation in order to receive payment for services.

The coders' responsibilities include reviewing the medical records of patients to be certain that all services and diagnoses are documented. Sometimes this necessitates that the coders telephone medical doctors in order to explain and/or verify the services rendered. In

addition, the coding is used for the Employer to track certain information about its patients and their illnesses. The coders use a manual to assist them in assigning a code to each diagnosis and procedure.

There are six full-time coders, the rest being either part-time or casual.³¹ Five of them do in-patient coding, and one does out-patient coding. The in-patient coders review and code about 19 to 20 patient files each day, while the out-patient coder can do hundreds of files in a day.³² The coders wear street dress and work with the manual and a computer.

The requirements for the position of a medical records coder is an Associate degree in either medical records technology or health records administration, or, alternatively, to have completed a medical technology course conducted by the American Health Information Management Association (AHIMA).³³ All of the Employer's coders have Associates degrees, and upon completion of that degree, became registered records technicians. There is also a licensing examination sponsored by AHIMA in coding; however, it appears that this licensure is not required by the Employer for its coders. However, the Employer does require that the medical records coders have certification either as an Accredited Record Technician (ART) or as a Registered Record Administrator (RRA).³⁴ All of the present medical records coders have the ART certification, which requires completion of an Associate degree. There is no continuing education requirement. The in-patient coders must have three to five years of

³¹ The record does not provide information sufficient to make a finding as to the regularity and frequency of employment of those individuals the parties referred to as casual employees.

³² The reason for the huge disparity in the number of files completed in a day is that the out-patients normally only have one diagnosis and/or procedure in a visit, while an in-patient usually has many, and they may have been admitted for multiple days.

³³ The record does not reflect how long the length of study is for this course.

³⁴ In order to take the examination to become an RRA, a candidate must have completed a four year Bachelors degree. None of the present medical records coders at SHHS have a Bachelors degree. Thus, none of the coders have the RRA certification.

experience to apply for the job, but no experience is necessary for the job of out-patient coding. The coders receive wages in a pay range which begins at \$10.89 per hour.

The Board has typically placed medical records coders in units of either service and maintenance employees or in units of business office clericals. Thus, the Board has considered the placement of employees who “primarily abstract information from patients’ charts for a computer,” Morristown-Hamblen Hospital Association, 226 NLRB 76, 79 (1976), and employees “involved in abstracting specified data from the records relating to particular diseases, injuries, and medical treatment to be used for hospital statistical and analytical purposes,” The Baptist Memorial Hospital, 225 NLRB 1165, 1168 (1976). See also, Faribault Clinic, Ltd., 308 NLRB 131, 133 (1992); St. Claude General Hospital, 219 NLRB 991, 992 (1975).

On the other hand, in Jewish Hospital of Cincinnati, supra, 223 NLRB at 619, the Board placed medical records technicians who “primarily abstract and code for computer input information as to diagnosis, surgery and treatment” in a technical unit. In that case, the employees, called medical records technicians, also worked with the Utilization Review Committee, and thus reviewed patient records to confirm that procedures were followed and standards were met which had been set by the physicians on that committee. They also handled all correspondence relating to patient records.

In the instant case, I find that the medical records coders are not technical employees. Although the educational qualifications are similar to those required of the medical records technicians in Jewish Hospital of Cincinnati, supra, the variety of work is not as extensive. In the instant case, the coders primary function is to abstract the information in patients’ records, assign codes to each entry, and pass on the coding to other employees who enter the information into the computer. Thus, I find that the job duties of the medical records technicians in Jewish Hospital of Cincinnati, supra, were different from those in the present case. In these circumstances, I find that the medical records coders are not technical employees. Despite the

educational requirements for the position, I find the job duties herein to be more similar to those of the employees in Morristown-Hamblen Hospital Association, supra; The Baptist Memorial Hospital, supra; Faribault Clinic, Ltd., supra; and St. Claude General Hospital, supra, than to those of the employees in Jewish Hospital of Cincinnati, supra.³⁵ Moreover, the coders have no contact with patients in the performance of their duties.

Based on the above and the record as a whole, I find that the medical records coders are not technical employees and I shall exclude them from the petitioned-for unit.

MEDICAL CHART TECHNICIANS

As described previously, the Employer, contrary to the Petitioner, would include the medical chart technicians in the technical unit, while the Petitioner would exclude them, asserting that they are business office clericals.

There are five medical chart technicians who work in the medical office building adjacent to the hospital. They work near the office area where the coders are located. They work daylight hours and are supervised by the Director of Quality and Outcomes program, Margaret Irwin.

The medical chart technicians work at computers installed with a Medis program in an Atlas database. The Commonwealth of Pennsylvania requires that all hospitals enter clinical information into the Atlas Medis Group program. The medical chart technicians take the patients' medical records, extrapolate the information required and enter the information into a computer. The technicians enter the diagnosis and the clinical justification upon which the

³⁵ In its brief, the Employer relies on both Jewish Hospital of Cincinnati, supra, and Medical Center of Beaver, PA, Inc., Case 6-RC-11308 (July 16, 1996), to support its contention that the coders should be included in a technical unit herein. As discussed above, I find that the employees in Jewish Hospital of Cincinnati, supra, had more varied duties than the coders herein. In Medical Center of Beaver, PA, Inc., supra, the employees had the discretion, when a diagnosis was found to be missing, to formulate a diagnosis based on the treatments in the patient's chart without consulting the physician. Thus, the employees in that case had more discretion and used more independent judgment than the coders in the instant case. Consequently, I do not find these cases controlling in the instant matter.

diagnosis was made. Sometimes, this requires the technicians to pull information from the hospital's mainframe computer and enter it into the Atlas database. The technicians also generate reports of this information for internal use at the Employer's facility, as well as for the Commonwealth of Pennsylvania.

The requirements for the job are the skills normally acquired through a high school education, plus on the job training. Although the job description states that the medical chart technicians must either be licensed by AHIMA or be a licensed practical nurse, in fact none of the present medical chart technicians possess either of these requirements. The technicians receive training once they have the job in how to use the Atlas Medis program. The medical chart technicians are paid within a wage rate that begins at \$9.81 per hour.

As discussed above with regard to medical records coders, the Board has typically found that employees who perform duties such as those performed by the medical chart technicians herein to be nonprofessional clerical employees. See The Baptist Memorial Hospital, supra; Morristown-Hamblen Hospital Association, supra. The Board has noted that such employees perform duties that are essentially clerical in nature, and that they are not required to have any formal education beyond high school, other than on the job training. The Baptist Memorial Hospital, supra; St. Claude General Hospital, supra.³⁶

In the instant case, the medical chart technicians are not required to have any formal education beyond high school. The job duties are essentially clerical in nature and do not require the use of independent judgment. They also have no contact with patients in the performance of their job duties.

³⁶ In its brief, the Employer contends that the job duties and qualifications of the medical chart technicians are very similar to those of the medical records technicians in Jewish Hospital of Cincinnati, supra, as well as the coding specialists found to be technical employees in the Regional Director's Decision and Direction of Election in Medical Center of Beaver, PA, Inc., Case 6-RC-11308 (July 16, 1996). I find that both the duties and particularly the job qualifications of the positions discussed in those cases are not similar to those of the medical chart technicians herein. In both of those cases, the educational and licensing requirements were considerably more extensive than required herein, and the job duties were more varied and allowed the use of independent judgment, unlike the medical chart technicians in the instant case. Thus, I find that these cases are distinguishable from the present case. See footnote 36.

Accordingly, based on the above and the record as a whole, I find that the medical chart technicians are nonprofessional clerical employees and, therefore, I shall exclude them from the petitioned-for unit of technical employees.

MEDICAL RECORDS SYSTEMS SPECIALISTS

The Employer contends that the position of medical records systems specialist is a technical one and should be included in the unit. Contrary to the Employer, the Petitioner asserts that the position is either professional or clerical, and, in either event, should be excluded from the petitioned-for technical unit.

The Employer employs one full-time and one part-time medical records systems specialist (herein "systems specialist"). They work in the medical records department on the second floor of the hospital. They work basically daylight hours. The position was created in about 1994, when the Employer began changing over all of the medical records from hard copy to computer. The systems specialist position was created to coordinate this changeover. The basic duties involve coordinating various computer systems, writing policies and procedures that have been developed, interacting with vendors to understand the software and hardware being purchased, and training the medical records staff.

Each time a new set of records are being entered into the computer system, the systems specialists coordinate the work with the computer entry employees. They make sure that the entries are acceptable for different agencies' requirements and check regulatory agencies' requirements as well. They test new software to be certain that it is compatible with the existing equipment, and troubleshoot when problems with the hardware or software arise. The systems specialists also work with vendors, both to understand new equipment that is being purchased and to solve problems that have arisen with existing equipment. They spend a great deal of time training the staff to use the hardware and software in the medical records department. Although they do their training fairly independently, the systems specialists cannot make

changes in any policies, procedures or equipment without such changes first being approved by the medical records department supervisor, Veronica Kish.

The systems specialist classification requires knowledge generally acquired through a four year Bachelor's degree in Medical Records Administration. They also must have certification through AHIMA. In order to obtain this certification, the individual must have the four year degree and have passed a written examination. In addition, they must complete 30 hours of continuing education every two years in order to keep the certification. The systems specialists earn a salary in a range that begins at \$10.89 per hour.

In the instant case, I find that the medical records systems specialists are not technical employees. The systems specialists are required to have a four year advanced degree and certification and to use a considerable amount of independent judgment. These factors distinguish them from technical employees. They write policies and procedures, train staff and interact with vendors on behalf of the Employer. They also review and test new computer software and equipment, train other employees in its use, and troubleshoot problems with such software and hardware when they arise. These job duties and qualifications are more closely associated with professional employees than with technical employees.³⁷ Moreover, the systems specialists have no patient contact in the performance of their duties.

Based on the above and the record as a whole, I find that the medical records systems specialist position is not a technical one, and therefore I shall exclude the medical records systems specialists from the petitioned-for unit.

TELECOMMUNICATIONS TECHNICIANS

The Employer contends that the telecommunications technician position is a technical classification and should be included in the petitioned-for unit. Contrary to the Employer, the

³⁷ In its brief, the Employer cites Jewish Hospital of Cincinnati, supra, in support of its contention that the systems specialist position is a technical one. However, I do not find that case persuasive inasmuch as I find no position discussed in that case comparable to the systems specialist position herein.

Petitioner maintains that the telecommunications technicians are not technical employees and should not be included in a unit of technical employees.

The telecommunications technicians are in the system development department, which is headed by its director, Robert Rock. There are two of these technicians, whose work shift is daylight, although they occasionally work at night. The system development department is responsible for the implementation of new and the maintenance of existing computer systems. The department employees are located on the Homestead campus, except for the telecommunications technicians, who are located in an office in the Bibro building on the Jefferson campus.

The main duties of the telecommunications technicians are to program and troubleshoot the telephone system as well as the paging system for the Employer. The Employer has a programmed voice answering system which is monitored, repaired and updated by the telecommunications technicians. These technicians change numbers, change voicemail, add beepers to voice mail, expand the space in voice mail, and add lines to the system. They also monitor the call accounting system which keeps track of the use of the telephones, collecting data as to where calls come from and go to, the length of calls, and so forth.

The telecommunications technicians perform much of their work at the Jefferson campus, but their work sometimes also requires them to travel to the Homestead campus. Some of their work is performed on a computer, from which the technicians can program the telephones, the paging system and the nurse call system. However, they spend much of their time out in the hospital and office areas, installing, testing and programming equipment. Approximately ninety percent of their time is spent out of the office.

The actual design of the system was developed by the department manager, who instructs the telecommunications technicians in the implementation of his design. Their main duty is to troubleshoot and to keep the operation running smoothly. These technicians install and upgrade the system as required.

The job requires that the telecommunications technician has completed either an Associate degree, a technical school program or have exceptional experience in the field. Two to three years of experience is also required. There are no certifications, licensure or continuing education required. The telecommunications technicians are paid within a range which begins at \$13.41 per hour.

I find that the telecommunications technicians herein should be excluded from the petitioned-for unit of technical employees. The technicians at issue herein have duties and qualification requirements similar to those in The Toledo Hospital, 312 NLRB 652, 654 (1993). In that case, the Board found that, based on the education, skills and the contact with maintenance operations employees, the telecommunications technicians were properly included in a skilled maintenance unit.³⁸ See also, Presbyterian University Hospital d/b/a University of Pittsburgh Medical Center, 313 NLRB 1341, 1343 (1994).

Accordingly, based on the above and the record as a whole, I find that the telecommunications technicians are not technical employees and I shall exclude them from the petitioned-for unit herein.

SENIOR COMPUTER OPERATORS

The Employer, as previously described, would include the senior computer operators in the unit of technical employees sought in the petition. The Petitioner, contrary to the Employer, would exclude this classification from a unit of technical employees.

There are eight full-time senior computer operators ("SCOs") employed by the Employer. These SCOs work at the Homestead campus in a room in which they monitor the hospital's mainframe computer. There are SCOs on duty seven days a week, 24 hours a day. The SCOs

³⁸ In its brief, the Employer cites The Toledo Hospital, supra, as finding that the telecommunications technicians were excluded from the skilled maintenance unit. However, the pages of that decision cited by the Employer are from the Decision and Direction of Election by the Regional Director. Following a request for review, the Board found, contrary to the Regional Director, that the telecommunications technicians should be included in the skilled maintenance unit. 312 NLRB at 654. Consequently, the Employer's reliance on The Toledo Hospital to support its position is misplaced.

are given a schedule of tasks for each shift, which describes their duties. The schedule is made up by system engineers and/or application programmers. They have no discretion in this schedule; they must complete the tasks outlined for them. They are also provided with the Employer's procedures with regard to computer operations which outline how the SCOs should proceed with each particular task. The SCOs, therefore, have little flexibility in how to perform their work.

The room in which the SCOs work is filled with monitors. They sit on chairs with wheels and move between various consoles, checking on the operation of the computers. They log in calls from departments regarding computer problems and either resolve the problem or notify others to work on it. The SCOs review, update and document changes in the hospital's technology. They load cartridges into tape drives, put in paper, dial out calls to transfer data lines in and out from vendors, payers, insurance companies and other hospitals. They make sure that the various departments are able to communicate and share information needed for the care of the patients, and that the business clericals can receive the information needed for billing and reimbursement purposes.

The position of SCO requires an Associate degree in a computer field or exceptional experience. There is no certification or licensing for this position. There is no formal continuing education requirement; however, there are inservice training sessions by management and by vendors when new technology and software is developed. The pay range for an SCO position begins at \$13.41 per hour.

I find that the position of senior computer operator should not be included in the petitioned-for unit of technical employees. In so deciding, I note that there is no required degree, certification, licensure or continuing education requirement. Further, the SCOs have no patient contact and no contact with employees directly involved with patient care.³⁹ Their only

³⁹ As previously noted, during the rulemaking proceeding leading to the Final Rule, the Board noted that technical employees in this field are distinguished, inter alia, "...by the fact that they work in patient care." 284 NLRB at 1554.

contacts with other employees are with other computer specialists. While the Board does not appear to have yet addressed the placement of this classification, I find that the Employer's SCOs do not have the criteria necessary to find them to be technical employees.

Based on the above and the record as a whole, I find that the senior computer operators are not technical employees and I shall exclude them from the unit found appropriate herein.⁴⁰

MEDICAL CLAIMS AUDITOR

The Employer asserts that the position of medical claims auditor is a technical one and should be included in the unit of technical employees. To the contrary, the Petitioner contends that the position is not a technical one and therefore should be excluded from the petitioned-for unit.

The Employer has one medical claims auditor, Denise Bennett. She works under Joyce Mazingo, the Director of Patient Finance Services. Although the patient finance services department is located in the building on the Homestead campus which used to be the hospital there, Bennett's office is on the Jefferson campus, on the first floor of the hospital, because of her need to use the medical records located there. The position was developed in order to have an individual act as a liaison between the patient accounting department and the clinical departments. Her job is to review problems that arise between these two operational areas.

The medical claims auditor works in an office where she reviews problems in these areas. She reviews cases where insurers or Medicare have denied payment for a billing to a

⁴⁰ Again, the Employer, in its brief, mis-cites The Toledo Hospital. The Employer cites to the Regional Director's finding therein that the network analysts and technical analysts should be excluded from a skilled maintenance unit. However, following a request for review, the Board found that there were several issues raised, including, inter alia, network analysts and technical analysts, which required further study and additional facts in order to resolve them, and could best be resolved at the time through the use of the Board's challenged ballot procedure. 312 NLRB at 655. Thus, the Board in that case did not make a determination regarding the placement of those two classifications, contrary to the Employer's assertion in its brief. Indeed, the Board stated therein that "...employees who maintain, repair and operate complex, sophisticated equipment will not be excluded from a skilled maintenance unit solely because that equipment is not directly part of the physical plant." Id. at 654.

patient, and attempts to resolve the problem. In reviewing cases, the medical claims auditor utilizes a file from the Patient Financial Services area which keeps track of all of the charges used by the Employer. She will also pull medical records of patients to review the treatments and diagnoses. If possible, the medical claims auditor makes the necessary changes to codes or other data so that the payment will be made. Some of the problems are referred to her on paper, while others are a result of a telephone call from former patients whose insurance has denied a claim for reimbursement for services. When Bennett works on the denials by insurers, she initiates and documents an appeal process to attempt to receive the payment desired.

Another aspect of her work is to audit accounts. These records are selected randomly and are reviewed by Bennett for accuracy and quality, as well as to identify any problems that appear therein. She also takes part in external audits which are performed from time to time by insurance companies. When these occur, Bennett acts as a liaison between the auditing company and the Employer.

The position of medical claims auditor requires a high school diploma, plus a training program of 13 to 24 months. In addition, the medical claims auditor is required to be a licensed practical nurse. This is required because of the need to read and understand patient charts and records. The pay range for this position begins at \$14.89 per hour.

I find that the medical claims auditor position is not a technical one in the instant case. While the job requires an LPN license, and LPNs have been determined to be technical employees, this fact alone is not sufficient to find the position to be a technical one. It appears that the Board has not yet made a finding on this particular classification,⁴¹ but in this case the

⁴¹ In its brief, the Employer compares this position to that of utilization review specialists ("URS") in Meriter Hospital, Inc., supra, 306 NLRB at 599 – 600. In that case, the Board affirmed the finding of the Regional Director that the URS position was a professional one because the individuals in that position were registered nurses. However, in that case, the URS had direct contact regularly with the clinical staff, since the job entailed decision-making as to whether or not a patient should continue to stay in the hospital in light of their condition and the requirements of the insurers. In that case, the URS regularly spent time on the medical floors to review patient situations with the clinical staff. In the instant case, while the medical claims auditor may need to speak to the clinical staff occasionally, the work primarily involves reviewing records from the medical records department and filing papers. Thus, I do not find Meriter Hospital, Inc. to be apposite to the situation herein.

duties of the medical claims auditor appear to be more akin to those of business office clerical employees than technical employees. The medical claims auditor deals with insurance companies and medical records, and the job's purpose is to make sure that the billings have been done correctly so that the insurer will provide reimbursement. While the LPN license is useful to understand the charts that are reviewed, the function of the job is essentially clerical.

Accordingly, based on the above and the record as a whole, I find that the position of medical claims auditor is not a technical one and thus I shall exclude it from the unit found appropriate herein.

Accordingly, I find the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time technical employees including licensed practical nurses, radiologic technologists, respiratory care technicians, medical laboratory technicians, paramedics, CT technologists, special procedures technologists, physical therapy assistants, certified occupational therapy assistants (COTA), dietetic technicians, exercise physiologists, ultrasound technologists, charge auditors/emergency department, inventory management specialists/pharmacy department, EMS medication specialists/EMS department, patient placement assistant/medical records department, tumor-cancer registrar/oncology department, cardiovascular technologists, nuclear medicine technologists, echocardiology technologists, operating room technicians, anesthesia technicians and respiratory therapists, employed by the Employer at its Jefferson Hospital and Jefferson Surgery Center facilities located in Jefferson Hills, Pennsylvania, and at its Homestead Health Center, including the Willis Nursing Center, the Emergency Room and Family Medicine located in Homestead, Pennsylvania, and at the Clairton Works of USX located in Clairton, Pennsylvania; excluding registered nurses, patient care rehabilitation technicians, dark room technicians, dialysis technologists, central services technicians, music therapists, athletic trainers, medical chart technicians, medical records coders, medical records systems specialists, pharmacy technicians, telecommunications technicians, senior computer operators, medical claims auditors, cardiology (EKG) technicians, phlebotomists, emergency room technicians, and medical technologists, office clerical employees and guards, professional employees and supervisors as defined in the Act and all other employees.

DIRECTION OF ELECTION

An election by secret ballot will be conducted by the Regional Director among the employees in the unit set forth above at the time and place set forth in the Notice of Election to be issued subsequently, subject to the Board's Rules and Regulations.⁴² Eligible to vote are those employees in the unit who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period because they were ill, on vacation or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period and employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced.⁴³ Those eligible shall vote whether

⁴² Pursuant to Section 103.20 of the Board's Rules and Regulations, official Notices of Election shall be posted by the Employer in conspicuous places at least 3 full working days prior to 12:01 a.m. of the day of the election. As soon as the election arrangements are finalized, the Employer will be informed when the Notices must be posted in order to comply with the posting requirement. Failure to post the Election Notices as required shall be grounds for setting aside the election whenever proper and timely objections are filed. The Board has interpreted Section 103.20(c) as requiring an employer to notify the Regional Office at least five (5) full working days prior to 12:01 a.m. of the day of the election that it has not received copies of the election notice.

⁴³ In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. Excelsior Underwear, Inc. 156 NLRB 1236 (1966); NLRB v. Wyman-Gordon Company, 394 U.S. 759 (1969). Accordingly, it is hereby directed that the election eligibility list, containing the full names and addresses of all eligible voters, must be filed by the Employer with the Regional Director within seven (7) days of the date of this Decision and Direction of Election. The Regional Director shall make the list available to all parties to the election. In order to be timely filed, such list must be received in the Regional Office, Room 1501, 1000 Liberty Avenue, Pittsburgh, PA 15222, on or before May 18, 2000. No extension of time to file this list may be granted, except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

or not they desire to be represented for collective bargaining by Jefferson Hospital Technical Employees Association/PSEA Health Care.

Dated at Pittsburgh, Pennsylvania, this 11th day of May 2000.

/s/Michael Poprik

Michael Poprik

Acting Regional Director, Region Six

NATIONAL LABOR RELATIONS BOARD

Room 1501, 1000 Liberty Avenue

Pittsburgh, PA 15222

470-3300-0000-0000

470-3340-0000-0000

APPENDIX A - STIPULATIONS

CLASSIFICATIONS TO BE INCLUDED IN THE UNIT FOUND APPROPRIATE

Licensed Practical Nurse (LPNs)
Radiologic Technologist
Respiratory Care Technician
Medical Laboratory Technician
Paramedic
CT Technologist
Special Procedures Technologist
Physical Therapy Assistant
Certified Occupational Therapy Assistant (COTA)
Dietetic Technician
Exercise Physiologist
Ultrasound Technologist
Charge Auditor/Emergency Department
Inventory Management Specialist/Pharmacy Department
EMS Medication Specialist/EMS Department
Patient Placement Assistant/ Medical Records Department
Tumor/Cancer Registrar/Oncology
Cardiovascular Technologist
Nuclear Medicine Technologist
Echocardiology Technologist

CLASSIFICATIONS TO BE EXCLUDED FROM THE UNIT FOUND APPROPRIATE

Patient Care Rehabilitation Technician
Dark Room Technician
Dialysis Technologist
Central Services Technician